

AMENDED IN SENATE MARCH 28, 2006

SENATE BILL

No. 1211

Introduced by Senator Poochigian

January 30, 2006

An act to amend Sections 9000, 9100, 9102, 9103, 9104, 9250, 9353, 19000, 19011, 19022, 19023, 19025, 19040, 19050, 19051, 19052, 19053, 19100, 19103, 19104, 19150, 19151, 19154, ~~19252,~~ ~~and 19255~~ *19201, 19202, 19203, 19252, 19255, and 19304* of the Probate Code, relating to estates and trusts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1211, as amended, Poochigian. Estates and trusts: creditor's claims.

(1) Existing law requires the personal representative administering a decedent's estate to provide notice to creditors of the decedent pursuant to a specified procedure. Existing law permits property to be titled in a trust, and provides that, upon the death of a settlor of a trust, the property of the deceased settlor that was subject to the power of revocation at the time of the settlor's death is subject to the claims of creditors of the deceased settlor's estate.

This bill would make various changes in the provisions described above to increase uniformity between the provisions, including (1) establishing a definition of the term "creditor" and using it to replace the term "claimant"; (2) clarifying how notice shall be given to creditors of a decedent's estate; (3) specifying the effect of certain provisions on other provisions regarding limitations of actions; (4) revising the procedure for giving notice to a creditor of a trust and lengthening the period of time that a creditor of a trust may file a

claim; and (5) revising provisions pursuant to which a creditor of a trust may file, and a court may allow, a late claim.

(2) *Existing law requires a trustee to notify the State Director of Health Services of the death of a settlor of a trust who the trustee knows or has reason to believe has been receiving health care pursuant to specified provisions.*

This bill would require a trustee to notify the State Director of Health Services of the death of the spouse of a settlor of a trust who the trustee knows or has reason to believe has been receiving health care services.

(3) *Existing law specifies the interest rate to be paid by people who receive distributions of property from a trust prior to the expiration of the time allowed for a public entity to file a claim against the trust, if a public entity subsequently successfully enforces a claim on the trust property.*

This bill would revise the rate of interest to be paid on a public entity's claims against distributees receiving trust property, as described above.

(4) *The bill would also make other technical and correctional changes to these provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9000 of the Probate Code is amended to
2 read:
3 9000. As used in this division:
4 (a) "Claim" means a demand for payment for any of the
5 following, whether due, not due, accrued or not accrued, or
6 contingent, and whether liquidated or unliquidated:
7 (1) Liability of the decedent, whether arising in contract, tort,
8 or otherwise.
9 (2) Liability for taxes incurred before the decedent's death,
10 whether assessed before or after the decedent's death, other than
11 property taxes and assessments secured by real property liens.
12 (3) Liability of the estate for funeral expenses of the decedent.
13 (b) "Claim" does not include a dispute regarding title of a
14 decedent to specific property alleged to be included in the
15 decedent's estate.

1 (c) “Creditor” means a person who may have a claim against
2 estate property.

3 SEC. 2. Section 9100 of the Probate Code is amended to read:

4 9100. (a) A creditor shall file a claim before expiration of the
5 later of the following times:

6 (1) Four months after the date letters are first issued to a
7 general personal representative.

8 (2) Sixty days after the date notice of administration is mailed
9 or personally delivered to the creditor. Nothing in this paragraph
10 extends the time provided in Section 366.2 of the Code of Civil
11 Procedure.

12 (b) A reference in another statute to the time for filing a claim
13 means the time provided in paragraph (1) of subdivision (a).

14 (c) Nothing in this section shall be interpreted to extend or toll
15 any other statute of limitations or to revive a claim that is barred
16 by any statute of limitations. The reference in this subdivision to
17 a “statute of limitations” includes Section 366.2 of the Code of
18 Civil Procedure.

19 SEC. 3. Section 9102 of the Probate Code is amended to read:

20 9102. A claim that is filed before expiration of the time for
21 filing the claim is timely even if acted on by the personal
22 representative or by the court after expiration of the time for
23 filing claims.

24 SEC. 4. Section 9103 of the Probate Code is amended to read:

25 9103. (a) Upon petition by a creditor or the personal
26 representative, the court may allow a claim to be filed after
27 expiration of the time for filing a claim provided in Section 9100
28 if either of the following conditions is satisfied:

29 (1) The personal representative failed to send proper and
30 timely notice of administration of the estate to the creditor, and
31 that petition is filed within 60 days after the creditor has actual
32 knowledge of the administration of the estate.

33 (2) The creditor had no knowledge of the facts reasonably
34 giving rise to the existence of the claim more than 30 days prior
35 to the time for filing a claim as provided in Section 9100, and the
36 petition is filed within 60 days after the creditor has actual
37 knowledge of both of the following:

38 (A) The existence of the facts reasonably giving rise to the
39 existence of the claim.

40 (B) The administration of the estate.

1 (b) Notwithstanding subdivision (a), the court shall not allow
2 a claim to be filed under this section after the court makes an
3 order for final distribution of the estate.

4 (c) The court may condition the claim on terms that are just
5 and equitable, and may require the appointment or reappointment
6 of a personal representative if necessary. The court may deny the
7 creditor's petition if a payment to general creditors has been
8 made and it appears that the filing or establishment of the claim
9 would cause or tend to cause unequal treatment among creditors.

10 (d) Regardless of whether the claim is later established in
11 whole or in part, payments otherwise properly made before a
12 claim is filed under this section are not subject to the claim.
13 Except to the extent provided in Section 9392 and subject to
14 Section 9053, the personal representative or payee is not liable on
15 account of the prior payment. Nothing in this subdivision limits
16 the liability of a person who receives a preliminary distribution
17 of property to restore to the estate an amount sufficient for
18 payment of the distributee's proper share of the claim, not
19 exceeding the amount distributed.

20 (e) Notice of hearing on the petition shall be given as provided
21 in Section 1220.

22 (f) Nothing in this section authorizes allowance or approval of
23 a claim barred by, or extends the time provided in, Section 366.2
24 of the Code of Civil Procedure.

25 SEC. 5. Section 9104 of the Probate Code is amended to read:

26 9104. (a) Subject to subdivision (b), if a claim is filed within
27 the time provided in this chapter, the creditor may later amend or
28 revise the claim. The amendment or revision shall be filed in the
29 same manner as the claim.

30 (b) An amendment or revision may not be made to increase
31 the amount of the claim after the time for filing a claim has
32 expired. An amendment or revision to specify the amount of a
33 claim that, at the time of filing, was not due, was contingent, or
34 was not yet ascertainable, is not an increase in the amount of the
35 claim within the meaning of this subdivision.

36 (c) An amendment or revision may not be made for any
37 purpose after the earlier of the following times:

38 (1) The time the court makes an order for final distribution of
39 the estate.

1 (2) One year after letters are first issued to a general personal
2 representative. This paragraph does not extend the time provided
3 by Section 366.2 of the Code of Civil Procedure or authorize
4 allowance or approval of a claim barred by that section.

5 SEC. 6. Section 9250 of the Probate Code is amended to read:

6 9250. (a) When a claim is filed, the personal representative
7 shall allow or reject the claim in whole or in part.

8 (b) The allowance or rejection shall be in writing. The
9 personal representative shall file the allowance or rejection with
10 the court clerk and give notice to the creditor as provided in Part
11 2 (commencing with Section 1200) of Division 3, together with a
12 copy of the allowance or rejection.

13 (c) The allowance or rejection shall contain the following
14 information:

15 (1) The name of the creditor.

16 (2) The total amount of the claim.

17 (3) The date of issuance of letters.

18 (4) The date of the decedent's death.

19 (5) The estimated value of the decedent's estate.

20 (6) The amount allowed or rejected by the personal
21 representative.

22 (7) Whether the personal representative is authorized to act
23 under the Independent Administration of Estates Act (Part 6
24 (commencing with Section 10400)).

25 (8) A statement that the creditor has 90 days in which to act on
26 a rejected claim.

27 (d) The Judicial Council may prescribe an allowance or
28 rejection form, which may be part of the claim form. Use of a
29 form prescribed by the Judicial Council is deemed to satisfy the
30 requirements of this section.

31 (e) This section does not apply to a demand the personal
32 representative elects to treat as a claim under Section 9154.

33 SEC. 7. Section 9353 of the Probate Code is amended to read:

34 9353. (a) Regardless of whether the statute of limitations
35 otherwise applicable to a claim will expire before or after the
36 following times, a claim rejected in whole or in part is barred as
37 to the part rejected unless, within the following times, the
38 creditor commences an action on the claim or the matter is
39 referred to a referee or to arbitration:

1 (1) If the claim is due at the time the notice of rejection is
2 given, 90 days after the notice is given.

3 (2) If the claim is not due at the time the notice of rejection is
4 given, 90 days after the claim becomes due.

5 (b) The time during which there is a vacancy in the office of
6 the personal representative shall be excluded from the period
7 determined under subdivision (a).

8 SEC. 8. Section 19000 of the Probate Code is amended to
9 read:

10 19000. As used in this part:

11 (a) “Claim” means a demand for payment for any of the
12 following, whether due, not due, accrued or not accrued, or
13 contingent, and whether liquidated or unliquidated:

14 (1) Liability of the deceased settlor, whether arising in
15 contract, tort, or otherwise.

16 (2) Liability for taxes incurred before the deceased settlor’s
17 death, whether assessed before or after the deceased settlor’s
18 death, other than property taxes and assessments secured by real
19 property liens.

20 (3) Liability for the funeral expenses of the deceased settlor.

21 (b) “Claim” does not include a dispute regarding title to
22 specific property alleged to be included in the trust estate.

23 (c) “Creditor” means a person who may have a claim against
24 the trust property.

25 (d) “Trust” means a trust described in Section 18200, or, if a
26 portion of a trust, that portion that remained subject to the power
27 of revocation at the deceased settlor’s death.

28 (e) “Deceased settlor” means a deceased person who, at the
29 time of his or her death, held the power to revoke the trust in
30 whole or in part.

31 (f) “Debts” means all claims, as defined in subdivision (a), all
32 expenses of administration, and all other proper charges against
33 the trust estate, including taxes.

34 SEC. 9. Section 19011 of the Probate Code is amended to
35 read:

36 19011. (a) The Judicial Council may prescribe the form and
37 contents of the petition, notice, claim form, and allowance or
38 rejection form to be used pursuant to this part. The allowance or
39 rejection form may be part of the claim form.

1 (b) Any claim form adopted by the Judicial Council shall
2 inform the creditor that the claim must be filed with the court and
3 a copy mailed or delivered to the trustee. The claim form shall
4 include a proof of mailing or delivery of a copy of the claim to
5 the trustee, which may be completed by the claimant.

6 SEC. 10. Section 19022 of the Probate Code is amended to
7 read:

8 19022. (a) A proceeding under this chapter is commenced by
9 filing a verified petition stating facts showing that the petition is
10 authorized under this chapter and the grounds of the petition.

11 (b) The petition shall set forth a description of the trust and the
12 names of creditors with respect to which action is requested and
13 a description of each claim, together with the requested
14 determination by the court with respect to the claims, provided,
15 however, that this section does not require the filing of a copy of
16 the trust or disclosure of the beneficial interests of the trust. That
17 petition shall also set forth the beneficiaries of the trust, those
18 claimants whose interest in the trust may be affected by the
19 petition, and the trustees of any other trust to which an allocation
20 of liability may be approved by the court pursuant to the petition.

21 (c) The clerk shall set the matter for hearing.

22 SEC. 11. Section 19023 of the Probate Code is amended to
23 read:

24 19023. At least 30 days before the time set for the hearing on
25 the petition, the petitioner shall cause notice of the time and place
26 of the hearing and a copy of the petition to be served on each of
27 the creditors whose interests in the estate may be affected by the
28 petition in the manner provided in Chapter 4 (commencing with
29 Section 413.10) of Title 5 of Part 2 of the Code of Civil
30 Procedure.

31 SEC. 12. Section 19025 of the Probate Code is amended to
32 read:

33 19025. (a) If any creditor, beneficiary, or trustee fails timely
34 to file a written pleading upon notice, then the case is at issue,
35 notwithstanding the failure. The case may proceed on the petition
36 and written statements filed by the time of the hearing, and no
37 further pleadings by other persons are necessary. The creditor,
38 beneficiary, or trustee who failed timely to file a written pleading
39 upon notice may not participate further in the proceeding for the

determination requested, and that creditor, beneficiary, or trustee shall be bound by the decision in the proceeding.

(b) The court's order, when final, shall be conclusive as to the liability of the trust property with respect to the claims at issue in the petition. In the event of a subsequent administration of the estate of the deceased settlor, that order shall be binding on the personal representative of the estate of the deceased settlor as well as all creditors and beneficiaries who had notice of the petition.

SEC. 13. Section 19040 of the Probate Code is amended to read:

19040. (a) Publication of notice pursuant to this section shall be for at least 15 days. Three publications in a newspaper published once a week or more often, with at least five days intervening between the first and last publication dates, not counting the first and last publication dates as part of the five-day period, are sufficient. Notice shall be published in a newspaper of general circulation in the city, county, or city and county in this state where the deceased settlor resided at the time of death, or if none, in the city, county, or city and county in this state wherein trust property was located at the time of the settlor's death, or if none, in the city, county, or city and county in this state wherein the principal place of administration of the trust was located at the time of the settlor's death. If there is no newspaper of general circulation published in the applicable city, county, or city and county, notice shall be published in a newspaper of general circulation published in this state nearest to the applicable city, county, or city and county seat, and which is circulated within the applicable city, county, or city and county. If there is no such newspaper, notice shall be given in written or printed form, posted at three of the most public places within the community. For purposes of this section, "city" means a charter city as defined in Section 34101 of the Government Code or a general law city as defined in Section 34102 of the Government Code.

(b) The caption of the notice, the deceased settlor's name, and the name of the trustee shall be in at least 8-point type, the text of the notice shall be in at least 7-point type, and the notice shall state substantially as follows:

NOTICE TO CREDITORS

OF _____

1 # _____
2 SUPERIOR COURT OF CALIFORNIA
3 COUNTY OF _____

4 Notice is hereby given to the creditors and contingent creditors
5 of the above-named decedent, that all persons having claims
6 against the decedent are required to file them with the Superior
7 Court, at _____, and mail a copy to _____, as trustee of the
8 trust dated _____ wherein the decedent was the settlor, at _____,
9 within the later of four months after _____ (the date of the first
10 publication of notice to creditors) or, if notice is mailed or
11 personally delivered to you, 60 days after the date this notice is
12 mailed or personally delivered to you. A claim form may be
13 obtained from the court clerk. For your protection, you are
14 encouraged to file your claim by certified mail, with return
15 receipt requested.

16
17
18 (name and address of trustee or attorney)
19

20 (c) An affidavit showing due publication of notice shall be
21 filed with the clerk upon completion of the publication. The
22 affidavit shall contain a copy of the notice, and state the date of
23 its first publication.

24 SEC. 14. Section 19050 of the Probate Code is amended to
25 read:

26 19050. Except as provided in Section 19054, if the trustee has
27 knowledge of a creditor of the deceased settlor, the trustee shall
28 give notice to the creditor. The notice shall be given as provided
29 in Section 1215. For the purpose of this subdivision, a trustee has
30 knowledge of a creditor of the deceased settlor if the trustee is
31 aware that the creditor has demanded payment from the deceased
32 settlor or the trust estate.

33 SEC. 15. Section 19051 of the Probate Code is amended to
34 read:

35 19051. The notice shall be given before expiration of the later
36 of the following times:

37 (a) Four months after the first publication of notice under
38 Section 19040.

39 (b) Thirty days after the trustee first has knowledge of the
40 creditor.

SEC. 16. Section 19052 of the Probate Code is amended to read:
19052. The notice shall be in substantially the following form:

NOTICE TO CREDITORS
OF _____

SUPERIOR COURT OF CALIFORNIA
COUNTY OF _____

Notice is hereby given to the creditors and contingent creditors of the above-named decedent, that all persons having claims against the decedent are required to file them with the Superior Court, at _____, and mail or deliver a copy to _____, as trustee of the trust dated _____ wherein the decedent was the settlor, at _____, within the later of four months after _____ (the date of the first publication of notice to creditors) or, if notice is mailed or personally delivered to you, 60 days after the date this notice is mailed or personally delivered to you, or you must petition to file a late claim as provided in Section 19103 of the Probate Code. A claim form may be obtained from the court clerk. For your protection, you are encouraged to file your claim by certified mail, with return receipt requested.

(Date of mailing this notice if applicable) (name and address of

trustee or attorney)

SEC. 17. Section 19053 of the Probate Code is amended to read:

19053. (a) If the trustee believes that notice to a particular creditor is or may be required by this chapter and gives notice based on that belief, the trustee is not liable to any person for giving the notice, whether or not required by this chapter.

(b) If the trustee fails to give notice required by this chapter, the trustee is not liable to any person for that failure, unless a creditor establishes all of the following:

(1) The failure was in bad faith.

1 (2) The creditor did not have actual knowledge of the
2 proceedings under Chapter 1 (commencing with Section 19000)
3 sooner than one year after publication of notice to creditors under
4 Section 19040, and payment would have been made on the
5 creditor's claim if the claim had been properly filed.

6 (3) Within 16 months after the first publication of notice under
7 Section 19040, the creditor did both of the following:

8 (A) Filed a petition requesting that the court in which the
9 proceedings under Chapter 1 (commencing with Section 19000)
10 were initiated make an order determining the liability of the
11 trustee under this subdivision.

12 (B) At least 30 days before the hearing on the petition, caused
13 notice of the hearing and a copy of the petition to be served on
14 the trustee in the manner provided in Chapter 4 (commencing
15 with Section 413.10) of Title 5 of Part 2 of the Code of Civil
16 Procedure.

17 (c) Nothing in this section affects the liability of the trust
18 estate, if any, for the claim of a creditor, and the trustee is not
19 liable to the extent the claim is paid out of the trust estate.

20 (d) Nothing in this chapter imposes a duty on the trustee to
21 make a search for creditors of the deceased settlor.

22 SEC. 18. Section 19100 of the Probate Code is amended to
23 read:

24 19100. (a) A creditor shall file a claim before expiration of
25 the later of the following times:

26 (1) Four months after the first publication of notice to creditors
27 under Section 19040.

28 (2) Sixty days after the date actual notice is mailed or
29 personally delivered to the creditor. This paragraph does not
30 extend the time provided in Section 366.2 of the Code of Civil
31 Procedure.

32 (b) A reference in another statute to the time for filing a claim
33 means the time provided in paragraph (1) of subdivision (a).

34 (c) This section shall not be interpreted to extend or toll any
35 other statute of limitations, including that provided by Section
36 366.2 of the Code of Civil Procedure.

37 SEC. 19. Section 19103 of the Probate Code is amended to
38 read:

39 19103. (a) Except as provided in subdivision (b), upon
40 petition by a creditor or a trustee, the court may allow a claim to

1 be filed after expiration of the time for filing a claim provided in
2 Section 19100 if either of the following conditions are satisfied:

3 (1) The trustee failed to send proper and timely notice to the
4 creditor and the petition is filed within 60 days after the creditor
5 has actual knowledge of the administration of the trust.

6 (2) The creditor did not have knowledge of the facts giving
7 rise to the existence of the claim more than 30 days prior to the
8 time for filing a claim as provided in Section 19100, and the
9 petition is filed within 60 days after the creditor has actual
10 knowledge of both of the following:

11 (A) The existence of the facts reasonably giving rise to the
12 existence of the claim.

13 (B) The administration of the trust.

14 (b) Notwithstanding subdivision (a), the court shall not allow
15 a claim to be filed under this section more than one year after the
16 date of first publication of notice to creditors under Section
17 19040. Nothing in this subdivision authorizes allowance or
18 approval of a claim barred by, or extends the time provided in,
19 Section 366.2 of the Code of Civil Procedure.

20 (c) The court may condition the claim on terms that are just
21 and equitable. The court may deny the claimant's petition if a
22 distribution to trust beneficiaries or payment to general creditors
23 has been made and it appears the filing or establishment of the
24 claim would cause or tend to cause unequal treatment among
25 beneficiaries or creditors.

26 (d) Regardless of whether the claim is later established in
27 whole or in part, property distributed under the terms of the trust
28 subsequent to an order settling claims under Chapter 2
29 (commencing with Section 19020) and payments otherwise
30 properly made before a claim is filed under this section are not
31 subject to the claim. Except to the extent provided in Chapter 12
32 (commencing with Section 19400) and subject to Section 19053,
33 the trustee, distributee, or payee is not liable on account of the
34 prior distribution or payment. This subdivision does not limit the
35 liability of a person who recedes a preliminary distribution of
36 property to restore to the trust an amount sufficient for payment
37 of the beneficiary's proper share of the claim, not exceeding the
38 amount distributed.

39 SEC. 20. Section 19104 of the Probate Code is amended to
40 read:

1 19104. (a) Subject to subdivision (b), if a claim is filed
2 within the time provided in this chapter, the creditor may later
3 amend or revise the claim. The amendment or revision shall be
4 filed in the same manner as the claim.

5 (b) An amendment or revision may not be made to increase
6 the amount of the claim after the time for filing a claim has
7 expired. An amendment or revision to specify the amount of a
8 claim that, at the time of filing, was not due, was contingent, or
9 was not yet ascertainable, is not an increase in the amount of the
10 claim within the meaning of this ~~subdivision~~. *An subdivision.*

11 (c) *An* amendment or revision of a claim may not be made for
12 any purpose after the earlier of the following times:

13 (1) The time the court makes an order approving settlement of
14 the claim against the deceased settlor under Chapter 2
15 (commencing with Section 19020).

16 (2) One year after the date of the first publication of notice to
17 creditors under Section 19040. Nothing in this paragraph
18 authorizes allowance or approval of a claim barred by, or extends
19 the time provided in, Section 366.2 of the Code of Civil
20 Procedure.

21 SEC. 21. Section 19150 of the Probate Code is amended to
22 read:

23 19150. (a) A claim may be filed by the creditor or a person
24 acting on behalf of the claimant.

25 (b) A claim shall be filed with the court and a copy shall be
26 mailed to the trustee. Failure to mail a copy to the trustee does
27 not invalidate a properly filed claim, but any loss that results
28 from the failure shall be borne by the creditor.

29 SEC. 22. Section 19151 of the Probate Code is amended to
30 read:

31 19151. (a) A claim shall be supported by the affidavit of the
32 creditor or the person on behalf of the claimant stating:

33 (1) The claim is a just claim.

34 (2) If the claim is due, the facts supporting the claim, the
35 amount of the claim, and that all payments on and offsets to the
36 claim have been credited.

37 (3) If the claim is not due or contingent, or the amount is not
38 yet ascertainable, the facts supporting the claim.

39 (4) If the affidavit is made by a person other than the creditor,
40 the reason it is not made by the creditor.

(b) The trustee may require satisfactory vouchers or proof to be produced to support the claim. An original voucher may be withdrawn after a copy is provided. If a copy is provided, the copy shall be attached to the claim.

SEC. 23. Section 19154 of the Probate Code is amended to read:

19154. (a) Notwithstanding any other provision of this part, if a creditor makes a written demand for payment within the time specified in Section 19100, the trustee may waive formal defects and elect to treat the demand as a claim that is filed and established under this part by paying the amount demanded.

(b) Nothing in this section limits application of the doctrines of waiver, estoppel, laches, or detrimental reliance or any other equitable principle.

SEC. 24. Section 19201 of the Probate Code is amended to read:

19201. (a) Notwithstanding any other statute, if a claim of a public entity arises under a law, act, or code listed in subdivision (b):

(1) The public entity may provide a form to be used for the written notice or request to the public entity required by this chapter. Where appropriate, the form may require the decedent's social security number, if known.

(2) The claim is barred only after written notice or request to the public entity and expiration of the period provided in the applicable section. If no written notice or request is made, the claim is enforceable by the remedies, and is barred at the time, otherwise provided in the law, act, or code.

(b)

Law, Act, or Code	Applicable Section
Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code)	Section 6487.1 of the Revenue and Taxation Code
Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of	Section 6487.1 of the Revenue and Taxation Code

1	Division 2 of the Revenue and	
2	Taxation Code)	
3		
4	Transactions and Use Tax Law (Part	Section 6487.1 of the
5	1.6 (commencing with Section 7251)	Revenue and Taxation Code
6	of Division 2 of the Revenue and	
7	Taxation Code)	
8		
9	Motor Vehicle Fuel License Tax Law	Section 7675.1 of the
10	(Part 2 (commencing with Section	Revenue and Taxation Code
11	7301) of Division 2 of the Revenue	
12	and Taxation Code)	
13		
14	Use Fuel Tax Law (Part 3	Section 8782.1 of the
15	(commencing with Section 8601) of	Revenue and Taxation Code
16	Division 2 of the Revenue and	
17	Taxation Code)	
18		
19	Personal Income Tax Law (Part 10	Section 19266 of the
20	(commencing with Section 17001) of	Revenue and Taxation Code
21	Division 2 of the Revenue and	<i>Section 19517 of the Revenue</i>
22	Taxation Code) Administration of	<i>and Taxation Code</i>
23	<i>Franchise and Income Tax Laws (Part</i>	
24	<i>10.2 (commencing with Section</i>	
25	<i>18401) of Division 2 of the Revenue</i>	
26	<i>and Taxation Code)</i>	
27		
28	Cigarette Tax Law (Part 13	Section 30207.1 of the
29	(commencing with Section 30001) of	Revenue and Taxation Code
30	Division 2 of the Revenue and	
31	Taxation Code)	
32		
33	Alcoholic Beverage Tax Law (Part 14	Section 32272.1 of the
34	(commencing with Section 32001) of	Revenue and Taxation Code
35	Division 2 of the Revenue and	
36	Taxation Code)	
37		
38	Unemployment Insurance Code	Section 1090 of the
39		Unemployment Insurance
40		Code

State Hospitals for the Mentally Disordered (Chapter 2 (commencing with Section 7200) of Division 7 of the Welfare and Institutions Code)

Section 7277.1 of the Welfare and Institutions Code

Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code)

Section 9202 of the Probate Code

Waxman-Duffy Prepaid Health Plan Act (Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code)

Section 9202 of the Probate Code

SEC. 25 Section 19202 of the Probate Code is amended to read:

19202. (a) If the trustee knows or has reason to believe that the deceased settlor received health care under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, *or the surviving spouse of a person who received that health care*, the trustee shall give the State Director of Health Services notice of the deceased settlor's death in the manner provided in Section 215.

(b) The director has four months after notice is given in which to file a claim.

SEC. 26. Section 19203 of the Probate Code is amended to read:

19203. If property in the trust is distributed before expiration of the time allowed a public entity to file a claim, the public entity has a claim against the distributees to the full extent of the public entity's claim or each distributee's share of the distributed property, as set forth in Section 19402, whichever is less. The public entity's claim against distributees includes interest at a rate equal to that ~~earned in the Pooled Money Investment Account pursuant to Article 4.5 (commencing with Section 16480) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government~~ specified in Section 19521 of the Revenue and

1 *Taxation* Code, from the date of distribution or the date of filing
2 the claim by the public entity, whichever is later, plus other
3 accruing costs as in the case of enforcement of a money
4 judgment.

5 ~~SEC. 24.~~

6 *SEC. 27.* Section 19252 of the Probate Code is amended to
7 read:

8 19252. The trustee shall have the power to pay any claim or
9 portion of a claim and payment shall constitute allowance of the
10 claim to the extent of the payment. The trustee shall have the
11 power to compromise any claim or portion of a claim. If the
12 trustee or the attorney for the trustee is a creditor of the deceased
13 settlor, the trustee shall have the same powers regarding
14 allowance, rejection, payment, or compromise set forth in this
15 chapter.

16 ~~SEC. 25.~~

17 *SEC. 28.* Section 19255 of the Probate Code is amended to
18 read:

19 19255. (a) A rejected claim is barred as to the part rejected
20 unless the creditor brings an action on the claim or the matter is
21 referred to a referee or to arbitration within the following times,
22 excluding any time during which there is a vacancy in the office
23 of the trustee:

24 (1) If the claim is due at the time of giving the notice of
25 rejection, 90 days after the notice is given.

26 (2) If the claim is not due at the time of giving the notice of
27 rejection, 90 days after the claim becomes due.

28 (b) In addition to any other county in which an action on a
29 rejected claim may be commenced, the action may be
30 commenced in the county or city and county wherein the
31 principal place of administration of the trust is located.

32 (c) The creditor shall file a notice of the pendency of the
33 action or the referral to a referee or to arbitration with the court
34 clerk in the trust proceeding, together with proof of giving a copy
35 of the notice to the trustee as provided in Section 1215. Personal
36 service of a copy of the summons and complaint on the trustee is
37 equivalent to the filing and giving of the notice.

38 (d) Any property distributed by the trustee under the terms of
39 the trust after 120 days from the later of the time the notice of
40 rejection is given or the claim is due and before the notice of

1 pendency of action or referral or arbitration is filed and given,
2 excluding therefrom any time during which there is a vacancy in
3 the office of the trustee, is not subject to the claim. Neither the
4 trustee nor the distributee is liable on account of the distribution.

5 (e) The prevailing party in the action shall be awarded court
6 costs and, if the court determines that the prosecution or defense
7 of the action against the prevailing party was unreasonable, the
8 prevailing party shall be awarded reasonable litigation expenses,
9 including attorney's fees. For the purpose of this subdivision, the
10 prevailing party shall be the trustee if the creditor recovers an
11 amount equal to or less than the amount of the claim allowed by
12 the trustee, and shall be the creditor if the creditor recovers an
13 amount greater than the amount of the claim allowed by the
14 trustee.

15 *SEC. 29. Section 19304 of the Probate Code is amended to*
16 *read:*

17 19304. (a) An attachment lien may be converted into a
18 judgment lien on property in the trust estate subject to the
19 attachment lien, with the same priority as the attachment lien, in
20 either of the following cases:

21 (1) Where the judgment debtor dies after entry of judgment in
22 an action in which the property was attached.

23 (2) Where a judgment is entered after the death of the
24 defendant in an action in which the property was attached.

25 (b) To convert the attachment lien into a judgment lien, the
26 levying officer shall, after entry of judgment in the action in
27 which the property was attached and before the expiration of the
28 attachment lien, do one of the following:

29 (1) Serve an abstract of the judgment, and a notice that the
30 attachment lien has become a judgment lien, on the trustee or
31 other person holding property subject to the attachment lien.

32 (2) Record or file in any office where the writ of attachment
33 and notice of attachment are recorded or filed an abstract of the
34 judgment and a notice that the attachment lien has become a
35 judgment lien. If the attached property is real property, the
36 plaintiff or the plaintiff's attorney may record the required
37 abstract and notice with the same effect as if recorded by the
38 levying officer.

39 (c) After the death of the settlor, any members of the deceased
40 settlor's family who were supported in whole or in part by the

1 deceased settlor may claim an exemption provided in Section
2 487.020 of the Code of Civil Procedure for property levied on
3 under the writ of attachment if the right to the exemption exists at
4 the time the exemption is claimed. The trustee may claim the
5 exemption on behalf of members of the deceased settlor's family.
6 The claim of exemption may be made at any time before the time
7 the abstract and notice are served, recorded, or filed under
8 subdivision (b) with respect to the property claimed to be
9 exempt. The claim of exemption shall be made in the same
10 manner as an exemption is claimed under Section ~~485.610~~
11 ~~482.100~~ of the Code of Civil Procedure.

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